

**BEFORE THE
FEDERAL MARITIME COMMISSION**

Docket No.: 15-11

IGOR OVCHINNIKOV, IRINA RZAEVA, and DENIS NEKIPELOV,

Complainants,

— vs. —

**MICHAEL HITRINOV a/k/a
MICHAEL KHITRINOV,
EMPIRE UNITED LINES CO., INC., and CARCONT, LTD.**

Respondents.

**COMPLAINANTS' BRIEF IN OPPOSITION TO THE RESPONDENTS'
MOTION FOR LEAVE TO SUPPLEMENT RESPONSE**

Pursuant to Rules 69 and 71 of the Federal Maritime Commission's (the "Commission") Rules of Practice and Procedure (46 C.F.R. 502 et seq.), Complainants, through their Counsel, Marcus A. Nussbaum, Esq. and Seth M. Katz, Esq., respectfully submit this brief in opposition to the motion by respondents Michael Hitrinov a/k/a Michael Khitrinov and Empire United Lines Co., Inc. (collectively "Respondents"), dated May 6, 2016 for leave to supplement their response to the Commission's Notice of Default and Order to Show Cause of March 30, 2016.

This brief is respectfully submitted by Complainants herein in opposition to the motion of Respondents to enlarge their time within which to file a Response to the Commission's Notice of Default and Order to Show Cause in the above captioned matter, and upon such enlargement, to accept additional 'argument' proffered by Respondents' counsel in alleged support of said motion. It is respectfully submitted that as set forth below, Respondents' motion should be denied in its entirety, with prejudice.

At the outset, it is noted that Respondents herein have previously on numerous occasions petitioned the Commission for multiple enlargements, extensions, and courtesies with respect to

virtually each and every filing and/or procedural aspect of this case. Further, Respondents' counsel has engaged in unduly familiar and informal communications with the Commission, blatantly trading on Respondents' counsel's familiarity with the Commission and its staff.

As to the alleged 'substance' of Respondents' motion, it is respectfully submitted that Respondents' instant application is based and premised solely and entirely on conjecture, surmise, and speculation in lieu of any supporting facts or evidence to justify the very making of said application, let alone the granting of same.

Conspicuously absent from Respondents' motion is any Affidavit from one with "personal knowledge" of the wildly speculative theories espoused by Respondents' counsel, who for reasons unknown has elected to proceed by attorneys' affirmation only.

Additionally, and apart from rank, unattributed and unsubstantiated hearsay, neither has Respondents' counsel set forth or established any proof of an ongoing inspection and/or investigation by the U.S. Postal Service regarding mail allegedly served upon Respondents and returned to its sender; nor has Respondents' counsel demonstrated any nexus to such alleged unreturned mail to the case at bar.

In sum, Respondents now seek an undeserved and unsubstantiated further "bite at the apple" upon no good cause nor good faith basis whatsoever, other than an "eleventh hour" attempt to desperately evade and avoid the issuance of a default judgment herein, absent any good cause shown to warrant denial of the issuance of said default judgment.

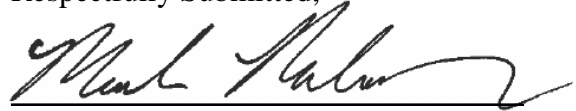
With regard to the disingenuous representation by Respondents' counsel as to having allegedly made a 'good faith' attempt to meet and confer with opposing counsel prior to resorting to motion practice, apparently said counsel's idea and interpretation of a "good faith attempt" is to have emailed counsel approximately four (4) hours before filing the instant motion, wherein Respondents' counsel acknowledge that the time period provided was inadequate and apologized for same. Needless to say, the foregoing cannot reasonably nor remotely be construed to constitute any such good faith attempt.

CONCLUSION

Consequently, and based upon the foregoing, it is respectfully urged and otherwise prayed for that the Commission deny Respondents' application in its entirety, with prejudice, and issue a default judgment in this matter.

Dated: May 10, 2016
Brooklyn, New York

Respectfully Submitted,

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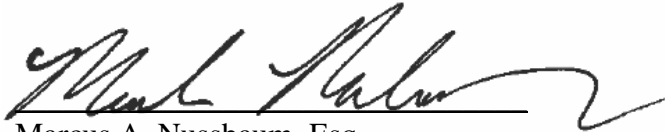
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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the **COMPLAINANTS' BRIEF IN OPPOSITION TO THE RESPONDENTS' MOTION FOR LEAVE TO SUPPLEMENT RESPONSE** upon Respondents' Counsel at the following address:

Nixon Peabody LLP
Attn: Eric C. Jeffrey, Esq.
799 9th Street NW, Suite 500
Washington, DC 20001-4501

by first class mail, postage prepaid, and by email (ejeffrey@nixonpeabody.com).

A handwritten signature in dark ink, appearing to read 'Marcus A. Nussbaum', is written over a horizontal line.

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Dated: May 10, 2016 in Brooklyn, New York.